

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN DAVID MCCUISTON,	)	
	)	
Petitioner,	)	
	)	1:16CV1094
v.	)	1:15CR122-1
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. §636(b) and, on May 3, 2019, was served on the parties in this action. (ECF Nos. 41, 42.) Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The Court therefore adopts the Magistrate Judge=s recommendation.

IT IS HEREBY ORDERED that Petitioner's motion to amend, (ECF No. 40), motion to vacate, set aside or correct sentence, (ECF No. 23), cross-motion for summary judgment, (ECF No. 34), and Affidavit and Affirmation and Motion to Order the Production of the Complete Presentence Report, (ECF No. 35), is DENIED, and that this action is DISMISSED with prejudice. A judgment dismissing this action will be entered contemporaneously with this Order.

Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This, the 18<sup>th</sup> day of June, 2019.

/s/ Loretta C. Biggs  
United States District Judge